

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JEROME SAUNDERS,

Movant,

v.

CRIMINAL NO. 2:02-00284-02
CIVIL ACTION NO. 2:04-1117

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order entered on July 21, 2004, and filed in this case on October 21, 2004, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation. Magistrate Judge Stanley filed her proposed findings and recommendation on March 30, 2005. In that filing, the magistrate judge recommended that this court find that movant has not made a substantial threshold showing that the United States obligated itself to make a Rule 35 motion for reduction of sentence or that the United States' decision not to make a motion was based upon some unconstitutional motive, find that movant is not entitled to an evidentiary hearing on this matter, and deny movant's motion to compel (Doc. No. 83).

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's Findings and Recommendation. No party has filed objections within the

requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Thomas v. Arn, 474 U.S. 140 (1985); Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby FINDS that movant has not made a substantial threshold showing that the United States obligated itself to make a Rule 35 motion for reduction of sentence on behalf of movant or that the United States' decision not to make a motion was based upon some unconstitutional motive, FINDS that movant is not entitled to an evidentiary hearing on this issue, DENIES movant's motion to compel (Doc. No. 83), and ORDERS this case removed from the court's docket.

The Clerk is directed to mail a copy of this memorandum opinion and order to all counsel of record, the plaintiff, and Magistrate Judge Stanley.

IT IS SO ORDERED this 22st day of April, 2005.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge